



State Administration Council

**Wednesday, April 19, 2006
3:30 PM – 5:00 PM
Morris Hall (17 HOB)**

COUNCIL ACTION

COUNCIL MEETING REPORT

State Administration Council

4/19/2006 3:30:00PM

Location: Morris Hall (17 HOB)

Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Donald Brown (Chair)	X		
Sandra Adams	X		
Ellyn Setnor Bogdanoff	X		
Mary Brandenburg	X		
Audrey Gibson	X		
Wilbert Holloway	X		
Stan Jordan	X		
Ron Reagan	X		
David Rivera	X		
Totals:	9	0	0

Committee meeting was reported out: Wednesday, April 19, 2006 4:36:57PM

COUNCIL MEETING REPORT

State Administration Council

4/19/2006 3:30:00PM

Location: Morris Hall (17 HOB)

HB 13 CS : Department of Elderly Affairs

☒ *Favorable*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Ellyn Setnor Bogdanoff	X				
Mary Brandenburg	X				
Audrey Gibson	X				
Wilbert Holloway			X		
Stan Jordan			X		
Ron Reagan	X				
David Rivera	X				
Donald Brown (Chair)	X				
Total Yeas: 7		Total Nays: 0			

Committee meeting was reported out: Wednesday, April 19, 2006 4:36:57PM

COUNCIL MEETING REPORT

State Administration Council

4/19/2006 3:30:00PM

Location: Morris Hall (17 HOB)

HB 133 CS : Student Voter Education

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Sandra Adams	X				
Ellyn Setnor Bogdanoff	X				
Mary Brandenburg	X				
Audrey Gibson	X				
Wilbert Holloway	X				
Stan Jordan			X		
Ron Reagan			X		
David Rivera	X				
Donald Brown (Chair)	X				
Total Yeas: 7		Total Nays: 0			

Committee meeting was reported out: Wednesday, April 19, 2006 4:36:57PM

COUNCIL MEETING REPORT

State Administration Council

4/19/2006 3:30:00PM

Location: Morris Hall (17 HOB)

HB 373 CS : Tuition Waivers

☒

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Ellyn Setnor Bogdanoff	X				
Mary Brandenburg	X				
Audrey Gibson	X				
Wilbert Holloway	X				
Stan Jordan			X		
Ron Reagan			X		
David Rivera	X				
Donald Brown (Chair)	X				
Total Yeas: 7		Total Nays: 0			

Committee meeting was reported out: Wednesday, April 19, 2006 4:36:57PM

COUNCIL MEETING REPORT

State Administration Council

4/19/2006 3:30:00PM

Location: Morris Hall (17 HOB)

HB 493 CS : Ethics for Public Officers and Employees

☒

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Ellyn Setnor Bogdanoff	X				
Mary Brandenburg	X				
Audrey Gibson	X				
Wilbert Holloway			X		
Stan Jordan			X		
Ron Reagan	X				
David Rivera	X				
Donald Brown (Chair)	X				
Total Yeas: 7		Total Nays: 0			

Committee meeting was reported out: Wednesday, April 19, 2006 4:36:57PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. 493 CS

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION ☒ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: State Administration Council
Representative(s) Ryan offered the following:

Amendment (with title amendment)

Remove line(s) 633 - 639 and insert:
the commission on July 1, 2006, until the expiration of his or
her current term. A member of the commission may not lobby any
state or local governmental entity as provided in s. 11.045 or
s. 112.3215 or as provided by any local government charter or
ordinance, except that this prohibition does not apply to an
individual who is a member of the commission on July 1, 2006,
until the expiration of his or her current term. All members

===== D I R E C T O R Y A M E N D M E N T =====

Remove line(s) and insert:

===== T I T L E A M E N D M E N T =====

Remove line(s) 52 - 54 and insert:

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

20 for individuals who are members of the commission; amending s.
21 112.3215, F.S.; requiring the

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HB 493 by Ryan for SAC Amend 1

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

Bill No. 493 CS

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION ☒ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: State Administration Council
Representative(s) Ryan offered the following:

Amendment

Insert between line(s) 713 - 714 :

Section 12. Effective April 1, 2007, paragraph (d) of
subsection (5) of section 112.3215, Florida Statutes, as amended
by this act, section 6 of chapter 2005-359, Laws of Florida, and
section 1 of chapter 2005-361, Laws of Florida, is amended to
read:

112.3215 Lobbying before the executive branch or the
Constitution Revision Commission; registration and reporting;
investigation by commission.--

(5)

(d) The commission shall provide by rule the grounds for
waiving a fine, the procedures a procedure by which a lobbying
firm that fails to timely file a report shall be notified and
assessed fines, and the procedure for appealing the fines. The
rule shall provide for the following:

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

21 1. Upon determining that the report is late, the person
22 designated to review the timeliness of reports shall immediately
23 notify the lobbying firm as to the failure to timely file the
24 report and that a fine is being assessed for each late day. The
25 fine shall be \$50 per day per report for each late day up to a
26 maximum of \$5,000 per late report.

27 2. Upon receipt of the report, the person designated to
28 review the timeliness of reports shall determine the amount of
29 the fine due based upon the earliest of the following:

30 a. When a report is actually received by the lobbyist
31 registration and reporting office.

32 b. When the electronic receipt issued pursuant to s.
33 112.32155 is dated.

34 3. Such fine shall be paid within 30 days after the notice
35 of payment due is transmitted by the Lobbyist Registration
36 Office, unless appeal is made to the commission. The moneys
37 shall be deposited into the Executive Branch Lobby Registration
38 Trust Fund.

39 4. A fine shall not be assessed against a lobbying firm
40 the first time any reports for which the lobbying firm is
41 responsible are not timely filed. However, to receive the one-
42 time fine waiver, all reports for which the lobbying firm is
43 responsible must be filed within 30 days after the notice that
44 any reports have not been timely filed is transmitted by the
45 Lobbyist Registration Office. A fine shall be assessed for any
46 subsequent late-filed reports.

47 5. Any lobbying firm may appeal or dispute a fine, based
48 upon unusual circumstances surrounding the failure to file on
49 the designated due date, and may request and shall be entitled
50 to a hearing before the commission, which shall have the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 (for drafter's use only)

51 authority to waive the fine in whole or in part for good cause
52 shown. Any such request shall be made within 30 days after the
53 notice of payment due is transmitted by the Lobbyist
54 Registration Office. In such case, the lobbying firm shall,
55 within the 30-day period, notify the person designated to review
56 the timeliness of reports in writing of his or her intention to
57 bring the matter before the commission.

58 6. The person designated to review the timeliness of
59 reports shall notify the commission of the failure of a lobbying
60 firm to file a report after notice or of the failure of a
61 lobbying firm to pay the fine imposed. All lobbyist
62 registrations for lobbyists who are partners, owners, officers,
63 or employees of a lobbying firm that fails to timely pay a fine
64 are automatically suspended until the fine is paid or waived,
65 and the commission shall promptly notify all affected principals
66 of each suspension and each reinstatement.

67 7. Notwithstanding any provision of chapter 120, any fine
68 imposed under this subsection that is not waived by final order
69 of the commission and that remains unpaid more than 60 days
70 after the notice of payment due or more than 60 days after the
71 commission renders a final order on the lobbying firm's appeal
72 shall be collected by the Department of Financial Services as a
73 claim, debt, or other obligation owed to the state, and the
74 department may assign the collection of such fine to a
75 collection agent as provided in s. 17.20.

76
77 ===== D I R E C T O R Y A M E N D M E N T =====

78 Remove line(s) and insert:

79 ===== T I T L E A M E N D M E N T =====

80 Remove line(s) and insert:

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COUNCIL MEETING REPORT

State Administration Council

4/19/2006 3:30:00PM

Location: Morris Hall (17 HOB)

HB 1037 CS : Campaign Financing

☒ *Favorable With Committee Substitute*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Ellyn Setnor Bogdanoff	X				
Mary Brandenburg	X				
Audrey Gibson	X				
Wilbert Holloway	X				
Stan Jordan	X				
Ron Reagan			X		
David Rivera	X				
Donald Brown (Chair)	X				
Total Yeas: 8 Total Nays: 0					

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. 1037 CS

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION ☒ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: State Administration Council
Representative(s) Rivera offered the following:

Amendment

Remove line(s) 51 and insert:
qualifying for the election in which such option is exercised.
An unopposed candidate for the Senate who exercises

===== D I R E C T O R Y A M E N D M E N T =====

Remove line(s) and insert:

===== T I T L E A M E N D M E N T =====

Remove line(s) and insert:

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COUNCIL MEETING REPORT

State Administration Council

4/19/2006 3:30:00PM

Location: Morris Hall (17 HOB)

HB 7081 : Administrative Procedures

☒

Favorable With Committee Substitute

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Ellyn Setnor Bogdanoff	X				
Mary Brandenburg	X				
Audrey Gibson	X				
Wilbert Holloway	X				
Stan Jordan	X				
Ron Reagan			X		
David Rivera	X				
Donald Brown (Chair)	X				
Total Yeas: 8 Total Nays: 0					

Committee meeting was reported out: Wednesday, April 19, 2006 4:36:57PM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. 7081

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION ☒ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

Council/Committee hearing bill: State Administration Council
Representative(s) Bogdanoff offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (4) of section 11.60, Florida
Statutes, is amended to read:

11.60 Administrative Procedures Committee; creation;
membership; powers; duties.--

(4) The committee shall ~~undertake and~~ maintain a
~~systematic and~~ continuous review of statutes that authorize
agencies to adopt rules and shall make recommendations to the
appropriate standing committees of the Senate and the House of
Representatives as to the advisability of considering changes to
the delegated legislative authority to adopt rules in specific
circumstances. The annual report submitted pursuant to paragraph
(2)(f) shall include ~~a schedule for the required systematic
review of existing statutes, a summary of the status of this
review, and~~ any recommendations provided to the standing
committees during the preceding year.

Section 2. Paragraph (d) of subsection (3) of section
57.111, Florida Statutes, is amended to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No..(for drafter's use only)

23 57.111 Civil actions and administrative proceedings
24 initiated by state agencies; attorneys' fees and costs:--

25 (3) As used in this section:

26 (d) The term "small business party" means:

27 1.a. A sole proprietor of an unincorporated business,
28 including a professional practice, whose principal office is in
29 this state, who is domiciled in this state, and whose business
30 or professional practice has, at the time the action is
31 initiated by a state agency, not more than 25 full-time
32 employees or a net worth of not more than \$2 million, including
33 both personal and business investments; ~~or~~

34 b. A partnership or corporation, including a professional
35 practice, which has its principal office in this state and has
36 at the time the action is initiated by a state agency not more
37 than 25 full-time employees or a net worth of not more than \$2
38 million; or

39 c. An individual whose net worth did not exceed \$2 million
40 at the time the action is initiated by a state agency when the
41 action is brought against that individual's license to engage in
42 the practice or operation of a business, profession, or trade;
43 or

44 2. Any ~~Either~~ small business party as defined in
45 subparagraph 1., without regard to the number of its employees
46 or its net worth, in any action under s. 72.011 or in any
47 administrative proceeding under that section to contest the
48 legality of any assessment of tax imposed for the sale or use of
49 services as provided in chapter 212, or interest thereon, or
50 penalty therefor.

51 Section 3. Paragraphs (d) and (e) of subsection (3) and
52 paragraph (b) of subsection (5) of section 120.54, Florida
53 Statutes, are amended to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

54 120.54 Rulemaking.--

55 (3) ADOPTION PROCEDURES.--

56 (d) Modification or withdrawal of proposed rules.--

57 1. After the final public hearing on the proposed rule, or
58 after the time for requesting a hearing has expired, if the rule
59 has not been changed from the rule as previously filed with the
60 committee, or contains only technical changes, the adopting
61 agency shall file a notice to that effect with the committee at
62 least 7 days prior to filing the rule for adoption. Any change,
63 other than a technical change that does not affect the substance
64 of the rule, must be supported by the record of public hearings
65 held on the rule, must be in response to written material
66 received on or before the date of the final public hearing, or
67 must be in response to a proposed objection by the committee. In
68 addition, when any change is made in a proposed rule, other than
69 a technical change, the adopting agency shall provide a copy of
70 a notice of change by certified mail or actual delivery to any
71 person who requests it in writing no later than 21 days after
72 the notice required in paragraph (a). The agency shall file the
73 notice of change with the committee, along with the reasons for
74 the such change, and provide the notice of change to persons
75 requesting it, at least 21 days prior to filing the rule for
76 adoption. The notice of change shall be published in the Florida
77 Administrative Weekly at least 21 days prior to filing the rule
78 for adoption. This subparagraph does not apply to emergency
79 rules adopted pursuant to subsection (4).

80 2. After the notice required by paragraph (a) and prior to
81 adoption, the agency may withdraw the rule in whole or in part.

82 3. After adoption and before the effective date, a rule
83 may be modified or withdrawn only in response to an objection by
84 the committee or may be modified to extend the effective date by

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

not more than 60 days when the committee has notified the agency that an objection to the rule is being considered.

4. The agency shall give notice of its decision to withdraw or modify a rule in the first available issue of the publication in which the original notice of rulemaking was published, shall notify those persons described in subparagraph (a)3. in accordance with the requirements of that subparagraph, and shall notify the Department of State if the rule is required to be filed with the Department of State.

5. After a rule has become effective, it may be repealed or amended only through the rulemaking procedures specified in this chapter.

(e) Filing for final adoption; effective date.--

1. If the adopting agency is required to publish its rules in the Florida Administrative Code, it shall file with the Department of State three certified copies of the rule it proposes to adopt, a summary of the rule, a summary of any hearings held on the rule, and a detailed written statement of the facts and circumstances justifying the rule. Agencies not required to publish their rules in the Florida Administrative Code shall file one certified copy of the proposed rule, and the other material required by this subparagraph, in the office of the agency head, and such rules shall be open to the public.

2. A rule may not be filed for adoption less than 28 days or more than 90 days after the notice required by paragraph (a), until 21 days after the notice of change required by paragraph (d), until 14 days after the final public hearing, until 21 days after preparation of a statement of estimated regulatory costs required under s. 120.541, or until the administrative law judge has rendered a decision under s. 120.56(2), whichever applies.
~~Filings shall be made no less than 28 days nor more than 90 days~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

~~after the notice required by paragraph (a).~~ When a required notice of change is published prior to the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after the date of publication. If notice of a public hearing is published prior to the expiration of the time to file the rule for adoption, the period during which a rule must be filed for adoption is extended to 45 days after adjournment of the final hearing on the rule, 21 days after receipt of all material authorized to be submitted at the hearing, or 21 days after receipt of the transcript, if one is made, whichever is latest. The term "public hearing" includes any public meeting held by any agency at which the rule is considered. If a petition for an administrative determination under s. 120.56(2) is filed, the period during which a rule must be filed for adoption is extended to 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete. ~~The filing of a petition for an administrative determination under the provisions of s. 120.56(2) shall toll the 90-day period during which a rule must be filed for adoption until the administrative law judge has filed the final order with the clerk.~~

3. At the time a rule is filed, the agency shall certify that the time limitations prescribed by this paragraph have been complied with, that all statutory rulemaking requirements have been met, and that there is no administrative determination pending on the rule.

4. At the time a rule is filed, the committee shall certify whether the agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee. The department shall reject any rule

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

not filed within the prescribed time limits; that does not satisfy all statutory rulemaking requirements; upon which an agency has not responded in writing to all material and timely written inquiries or written comments; upon which an administrative determination is pending; or which does not include a statement of estimated regulatory costs, if required.

5. If a rule has not been adopted within the time limits imposed by this paragraph or has not been adopted in compliance with all statutory rulemaking requirements, the agency proposing the rule shall withdraw the rule and give notice of its action in the next available issue of the Florida Administrative Weekly.

6. The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the rule, or on a date required by statute. Rules not required to be filed with the Department of State shall become effective when adopted by the agency head or on a later date specified by rule or statute. If the committee notifies an agency that an objection to a rule is being considered, the agency may postpone the adoption of the rule to accommodate review of the rule by the committee. When an agency postpones adoption of a rule to accommodate review by the committee, the 90-day period for filing the rule is tolled until the committee notifies the agency that it has completed its review of the rule.

For the purposes of this paragraph, the term "administrative determination" does not include subsequent judicial review.

(5) UNIFORM RULES.--

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

176 (b) The uniform rules of procedure adopted by the
177 commission pursuant to this subsection shall include, but are
178 not limited to:

179 1. Uniform rules for the scheduling of public meetings,
180 hearings, and workshops.

181 2. Uniform rules for use by each state agency that provide
182 procedures for conducting public meetings, hearings, and
183 workshops, and for taking evidence, testimony, and argument at
184 such public meetings, hearings, and workshops, in person and by
185 means of communications media technology. The rules shall
186 provide that all evidence, testimony, and argument presented
187 shall be afforded equal consideration, regardless of the method
188 of communication. If a public meeting, hearing, or workshop is
189 to be conducted by means of communications media technology, or
190 if attendance may be provided by such means, the notice shall so
191 state. The notice for public meetings, hearings, and workshops
192 utilizing communications media technology shall state how
193 persons interested in attending may do so and shall name
194 locations, if any, where communications media technology
195 facilities will be available. Nothing in this paragraph shall be
196 construed to diminish the right to inspect public records under
197 chapter 119. Limiting points of access to public meetings,
198 hearings, and workshops subject to the provisions of s. 286.011
199 to places not normally open to the public shall be presumed to
200 violate the right of access of the public, and any official
201 action taken under such circumstances is void and of no effect.
202 Other laws relating to public meetings, hearings, and workshops,
203 including penal and remedial provisions, shall apply to public
204 meetings, hearings, and workshops conducted by means of
205 communications media technology, and shall be liberally
206 construed in their application to such public meetings,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

207 hearings, and workshops. As used in this subparagraph,
208 "communications media technology" means the electronic
209 transmission of printed matter, audio, full-motion video,
210 freeze-frame video, compressed video, and digital video by any
211 method available.

212 3. Uniform rules of procedure for the filing of notice of
213 protests and formal written protests. The Administration
214 Commission may prescribe the form and substantive provisions of
215 a required bond.

216 4. Uniform rules of procedure for the filing of petitions
217 for administrative hearings pursuant to s. 120.569 or s. 120.57.
218 Such rules shall require the petition to include:

219 a. The identification of the petitioner.

220 b. A statement of when and how the petitioner received
221 notice of the agency's action or proposed action.

222 c. An explanation of how the petitioner's substantial
223 interests are or will be affected by the action or proposed
224 action.

225 d. A statement of all material facts disputed by the
226 petitioner or a statement that there are no disputed facts.

227 e. A statement of the ultimate facts alleged, including a
228 statement of the specific facts the petitioner contends warrant
229 reversal or modification of the agency's proposed action.

230 f. A statement of the specific rules or statutes that the
231 petitioner contends require reversal or modification of the
232 agency's proposed action, including an explanation of how the
233 alleged facts relate to the specific rules or statutes.

234 g. A statement of the relief sought by the petitioner,
235 stating precisely the action petitioner wishes the agency to
236 take with respect to the proposed action.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

237 5. Uniform rules for the filing of a request for
238 administrative hearing by a respondent in agency enforcement and
239 disciplinary actions. Such rules shall require a request to
240 include:

241 a. The name, address, and telephone number of the party
242 making the request and the name, address, and telephone number
243 of the party's counsel or qualified representative upon whom
244 service of pleadings and other papers shall be made;

245 b. A statement that the respondent is requesting an
246 administrative hearing and disputes the material facts alleged
247 by the petitioner, in which case the respondent shall identify
248 those material facts that are in dispute, or that the respondent
249 is requesting an administrative hearing and does not dispute the
250 material facts alleged by the petitioner; and

251 c. A reference by file number to the administrative
252 complaint that the party has received from the agency and the
253 date on which the agency pleading was received.

254
255 The agency may provide an election-of-rights form for the
256 respondent's use in requesting a hearing, so long as any form
257 provided by the agency calls for the information in sub-
258 subparagraphs a.-c. and does not impose any additional
259 requirements on a respondent in order to request a hearing,
260 unless such requirements are specifically authorized by law.

261 6.5- Uniform rules of procedure for the filing and prompt
262 disposition of petitions for declaratory statements. The rules
263 shall also describe the contents of the notices that must be
264 published in the Florida Administrative Weekly under s. 120.565,
265 including any applicable time limit for the filing of petitions
266 to intervene or petitions for administrative hearing by persons
267 whose substantial interests may be affected.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

268 ~~7.6-~~ Provision of a method by which each agency head shall
269 provide a description of the agency's organization and general
270 course of its operations.

271 ~~8.7-~~ Uniform rules establishing procedures for granting or
272 denying petitions for variances and waivers pursuant to s.
273 120.542.

274 Section 4. Effective December 31, 2007, section 120.55,
275 Florida Statutes, is amended to read:

276 120.55 Publication.--

277 (1) The Department of State shall:

278 (a)1. Through a continuous revision system, compile and
279 publish the "Florida Administrative Code." The Florida
280 Administrative Code shall contain all rules adopted by each
281 agency, citing the specific rulemaking authority pursuant to
282 which each rule was adopted, all history notes as authorized in
283 s. 120.545(9), and complete indexes to all rules contained in
284 the code. Supplementation shall be made as often as practicable,
285 but at least monthly. The department may contract with a
286 publishing firm for the publication, in a timely and useful
287 form, of the Florida Administrative Code; however, the
288 department shall retain responsibility for the code as provided
289 in this section. This publication shall be the official
290 compilation of the administrative rules of this state. The
291 Department of State shall retain the copyright over the Florida
292 Administrative Code.

293 2. Rules general in form but applicable to only one school
294 district, community college district, or county, or a part
295 thereof, or state university rules relating to internal
296 personnel or business and finance shall not be published in the
297 Florida Administrative Code. Exclusion from publication in the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Florida Administrative Code shall not affect the validity or effectiveness of such rules.

3. At the beginning of the section of the code dealing with an agency that files copies of its rules with the department, the department shall publish the address and telephone number of the executive offices of each agency, the manner by which the agency indexes its rules, a listing of all rules of that agency excluded from publication in the code, and a statement as to where those rules may be inspected.

4. Forms shall not be published in the Florida Administrative Code; but any form which an agency uses in its dealings with the public, along with any accompanying instructions, shall be filed with the committee before it is used. Any form or instruction which meets the definition of "rule" provided in s. 120.52 shall be incorporated by reference into the appropriate rule. The reference shall specifically state that the form is being incorporated by reference and shall include the number, title, and effective date of the form and an explanation of how the form may be obtained. Each form created by an agency which is incorporated by reference in a rule notice of which is given under s. 120.54(3)(a) after December 31, 2007, must clearly display the number, title, and effective date of the form and the number of the rule in which the form is incorporated.

(b) Electronically publish on an Internet website managed by the department a weekly publication entitled the "Florida Administrative Weekly," which shall serve as the official Internet website for such publication and must contain:

1. Notice of adoption of, and an index to, all rules filed during the preceding week.

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2. All notices required by s. 120.54(3)(a), showing the text of all rules proposed for consideration ~~or a reference to the location in the Florida Administrative Weekly where the text of the proposed rules is published.~~

3. All notices of public meetings, hearings, and workshops conducted in accordance with the provisions of s. 120.525, including a statement of the manner in which a copy of the agenda may be obtained.

4. A notice of each request for authorization to amend or repeal an existing uniform rule or for the adoption of new uniform rules.

5. Notice of petitions for declaratory statements or administrative determinations.

6. A summary of each objection to any rule filed by the Administrative Procedures Committee during the preceding week.

7. A cumulative list of all rules that have been proposed but not filed for adoption.

~~8.7.~~ Any other material required or authorized by law or deemed useful by the department.

The department shall publish a printed version of the Florida Administrative Weekly and make copies available on an annual subscription basis. The department may contract with a publishing firm for printed publication of the Florida Administrative Weekly.

(c) Review notices for compliance with format and numbering requirements before publishing them on the Florida Administrative Weekly Internet website.

(d)~~(e)~~ Prescribe by rule the style and form required for rules submitted for filing and establish the form for their certification.

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359 (e)(d) Correct grammatical, typographical, and like errors
360 not affecting the construction or meaning of the rules, after
361 having obtained the advice and consent of the appropriate
362 agency, and insert history notes.

363 ~~(e) Make copies of the Florida Administrative Weekly~~
364 ~~available on an annual subscription basis computed to cover a~~
365 ~~pro rata share of 50 percent of the costs related to the~~
366 ~~publication of the Florida Administrative Weekly.~~

367 (f) Charge each agency using the Florida Administrative
368 Weekly a space rate ~~computed to cover a pro rata share of 50~~
369 ~~percent of the costs related to the Florida Administrative~~
370 ~~Weekly and the Florida Administrative Code.~~

371 (g) Maintain a permanent record of all notices published
372 in the Florida Administrative Weekly.

373 (2) The Florida Administrative Weekly Internet website
374 must allow users to:

375 (a) Search for notices by type, publication date, rule
376 number, word, subject, and agency.

377 (b) Search a database that makes available all notices
378 published on the website for a period of at least 5 years.

379 (c) Subscribe to an automated e-mail notification of
380 selected notices.

381 (d) View agency forms incorporated by reference in
382 proposed rules.

383 (e) Comment on proposed rules.

384 (3) Publication of material required by paragraph (1)(b)
385 on the Florida Administrative Weekly Internet website does not
386 preclude publication of such material on an agency's website or
387 by other means.

388 (4)(2) Each agency shall provide copies of its rules upon
389 request, with citations to the grant of rulemaking authority and

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390 ~~the specific law implemented for each rule print or distribute~~
391 ~~copies of its rules, citing the specific rulemaking authority~~
392 ~~pursuant to which each rule was adopted.~~

393 ~~(5)(3)~~ Any publication of a proposed rule promulgated by
394 an agency, whether published in the Florida Administrative Code
395 or elsewhere, shall include, along with the rule, the name of
396 the person or persons originating such rule, the name of the
397 supervisor or person who approved the rule, and the date upon
398 which the rule was approved.

399 ~~(6)~~ Access to the Florida Administrative Weekly Internet
400 website and its contents, including the e-mail notification
401 service, shall be free for the public.

402 ~~(7)(a)(4)(a)~~ Each year the Department of State shall
403 furnish the Florida Administrative Weekly, without charge and
404 upon request, as follows:

405 1. One subscription to each federal and state court having
406 jurisdiction over the residents of the state; the Legislative
407 Library; each state university library; the State Library; each
408 depository library designated pursuant to s. 257.05; and each
409 standing committee of the Senate and House of Representatives
410 and each state legislator.

411 2. Two subscriptions to each state department.

412 3. Three subscriptions to the library of the Supreme Court
413 of Florida, the library of each state district court of appeal,
414 the division, the library of the Attorney General, each law
415 school library in Florida, the Secretary of the Senate, and the
416 Clerk of the House of Representatives.

417 4. Ten subscriptions to the committee.

418 (b) The Department of State shall furnish one copy of the
419 Florida Administrative Weekly, at no cost, to each clerk of the

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420 circuit court and each state department, for posting for public
421 inspection.

422 ~~(8)(a)(5)(a)~~ All fees and moneys collected by the
423 Department of State under this chapter shall be deposited in the
424 Records Management Trust Fund for the purpose of paying for the
425 ~~publication and distribution of the Florida Administrative Code~~
426 ~~and the Florida Administrative Weekly and for associated costs~~
427 incurred by the department in carrying out this chapter.

428 (b) The unencumbered balance in the Records Management
429 Trust Fund for fees collected pursuant to this chapter ~~may shall~~
430 not exceed \$300,000 at the beginning of each fiscal year, and
431 any excess shall be transferred to the General Revenue Fund.

432 ~~(c) It is the intent of the Legislature that the Florida~~
433 ~~Administrative Weekly be supported entirely from funds collected~~
434 ~~for subscriptions to and advertisements in the Florida~~
435 ~~Administrative Weekly.~~

436 Section 5. Paragraph (b) of subsection (2) of section
437 120.56, Florida Statutes, is amended to read:

438 120.56 Challenges to rules.--

439 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.--

440 (b) The administrative law judge may declare the proposed
441 rule wholly or partly invalid. Unless the decision of the
442 administrative law judge is reversed on appeal, the proposed
443 rule or provision of a proposed rule declared invalid shall be
444 ~~withdrawn by the adopting agency and shall not be adopted. No~~
445 ~~rule shall be filed for adoption until 28 days after the notice~~
446 ~~required by s. 120.54(3)(a), until 21 days after the notice~~
447 ~~required by s. 120.54(3)(d), until 14 days after the public~~
448 ~~hearing, until 21 days after preparation of a statement of~~
449 ~~estimated regulatory costs required pursuant to s. 120.541, or~~
450 ~~until the administrative law judge has rendered a decision,~~

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451 ~~whichever applies.~~ However, the agency may proceed with all
452 other steps in the rulemaking process, including the holding of
453 a factfinding hearing. In the event part of a proposed rule is
454 declared invalid, the adopting agency may, in its sole
455 discretion, withdraw the proposed rule in its entirety. The
456 agency whose proposed rule has been declared invalid in whole or
457 part shall give notice of the decision in the first available
458 issue of the Florida Administrative Weekly.

459 Section 6. Paragraph (c) of subsection (2) of section
460 120.569, Florida Statutes, is amended to read:

461 120.569 Decisions which affect substantial interests.--

462 (2)

463 (c) Unless otherwise provided by law, a petition or
464 request for hearing shall include those items required by the
465 uniform rules adopted pursuant to s. 120.54(5)(b)4. or 5. Upon
466 the receipt of a petition or request for hearing, the agency
467 shall carefully review the petition to determine if it contains
468 all of the required information. A petition shall be dismissed
469 if it is not in substantial compliance with these requirements
470 or it has been untimely filed. Dismissal of a petition shall,
471 at least once, be without prejudice to petitioner's filing a
472 timely amended petition curing the defect, unless it
473 conclusively appears from the face of the petition that the
474 defect cannot be cured. The agency shall promptly give written
475 notice to all parties of the action taken on the petition, shall
476 state with particularity its reasons if the petition is not
477 granted, and shall state the deadline for filing an amended
478 petition if applicable. This paragraph does not eliminate the
479 availability of equitable tolling as a defense to the untimely
480 filing of a petition.

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Section 7. Paragraphs (k) and (m) of subsection (1) and paragraph (a) of subsection (3) of section 120.57, Florida Statutes, are amended to read:

120.57 Additional procedures for particular cases.--

(1) ADDITIONAL PROCEDURES APPLICABLE TO HEARINGS INVOLVING DISPUTED ISSUES OF MATERIAL FACT.--

(k) The presiding officer shall complete and submit to the agency and all parties a recommended order consisting of findings of fact, conclusions of law, and recommended disposition or penalty, if applicable, and any other information required by law to be contained in the final order. All proceedings conducted under ~~pursuant to~~ this subsection shall be de novo. The agency shall allow each party 15 days in which to submit written exceptions to the recommended order. The final order shall include an explicit ruling on each exception, but an agency need not rule on an exception that does not clearly identify the disputed portion of the recommended order by page number or paragraph, that does not identify the legal basis for the exception, or that does not include appropriate and specific citations to the record.

(m) If a recommended order is submitted to an agency, the agency shall provide a copy of its final order and any exceptions to the division within 15 days after the order is filed with the agency clerk.

(3) ADDITIONAL PROCEDURES APPLICABLE TO PROTESTS TO CONTRACT SOLICITATION OR AWARD.--Agencies subject to this chapter shall use the uniform rules of procedure, which provide procedures for the resolution of protests arising from the contract solicitation or award process. Such rules shall at least provide that:

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(a) The agency shall provide notice of a decision or intended decision concerning a solicitation, contract award, or exceptional purchase by electronic posting. This notice shall contain the following statement: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes."

Section 8. Paragraphs (c) and (d) are added to subsection (10) of section 120.65, Florida Statutes, to read:

120.65 Administrative law judges.--

(10) Not later than February 1 of each year, the division shall issue a written report to the Administrative Procedures Committee and the Administration Commission, including at least the following information:

(c) Recommendations as to those types of cases or disputes which should be conducted under the summary hearing process described in s. 120.574.

(d) A report regarding each agency's compliance with the filing requirement in s. 120.57(1)(m).

Section 9. Subsection (2) of section 120.74, Florida Statutes, is amended to read:

120.74 Agency review, revision, and report.--

(2) Beginning October 1, 1997, and by October 1 of every other year thereafter, the head of each agency shall file a report with the President of the Senate, ~~and~~ the Speaker of the House of Representatives, and the committee, with a copy to each appropriate standing committee of the Legislature, which certifies that the agency has complied with the requirements of this subsection. The report must specify any changes made to its

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542 rules as a result of the review and, when appropriate, recommend
543 statutory changes that will promote efficiency, reduce
544 paperwork, or decrease costs to government and the private
545 sector. The report must identify the types of cases or disputes
546 in which the agency is involved which should be conducted under
547 the summary hearing process described in s. 120.574.

548 Section 10. The Department of State shall, before December
549 31, 2007, make available, to all agencies required on the
550 effective date of this act to publish materials in the Florida
551 Administrative Weekly, training courses for the purpose of
552 assisting the agencies with their transition to publishing on
553 the Florida Administrative Weekly Internet website. The training
554 courses may be provided in the form of workshops or software
555 packages that allow self-training by agency personnel.

556 Section 11. Except as otherwise expressly provided in this
557 act, this act shall take effect July 1, 2006.

558
559
560 ===== T I T L E A M E N D M E N T =====

561 Remove the entire title and insert:

562 A bill to be entitled
563 An act relating to administrative procedures; amending s.
564 11.60, F.S.; revising duties of the Administrative
565 Procedures Committee with respect to its review of
566 statutes; amending s. 57.111, F.S.; redefining the term
567 "small business" to include certain specified individuals
568 whose net worth does not exceed a specified amount;
569 amending s. 120.54, F.S.; requiring an agency to file a
570 notice of change with the Administrative Procedures
571 Committee; revising times for filing rules for adoption;
572 providing an exception to the term "administrative

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determination" for purposes of rule adoption; providing
for the form and provisions of bonds; revising
applicability of certain uniform rules; providing
additional content for uniform rules; amending s. 120.55,
F.S.; requiring that certain information be included in
forms incorporated by reference in rules; requiring
information to be published electronically on an Internet
website; providing that such publication does not preclude
other publications; providing additional duties of the
Department of State with respect to publications;
providing requirements for the Internet website; amending
s. 120.56, F.S.; revising provisions relating to
withdrawal of challenged rules; amending s. 120.569, F.S.;
providing for equitable tolling as a defense to the
untimely filing of a petition; amending s. 120.57, F.S.;
requiring a final order to include an explicit ruling on
each exception to the recommended order; requiring that
additional information be included in notices relating to
protests of contract solicitations or awards; amending s.
120.65, F.S.; requiring the Division of Administrative
Hearings to include certain recommendations and
information in its annual report to the Administrative
Procedures Committee; amending s. 120.74, F.S.; requiring
agency reports to be filed with the Administrative
Procedures Committee; requiring that the annual report
filed by an agency identify the types of cases or disputes
in which it is involved which should be conducted under
the summary hearing process; requiring the Department of
State to provide certain assistance to agencies in their
transition to publishing on the Florida Administrative
Weekly Internet website; providing effective dates.

COUNCIL MEETING REPORT

State Administration Council

4/19/2006 3:30:00PM

Location: Morris Hall (17 HOB)

HB 7233 CS : Review under the Open Government Sunset Review Act regarding the Communications Services Tax Simplification Law

☒ *Favorable*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Sandra Adams	X				
Ellyn Setnor Bogdanoff	X				
Mary Brandenburg	X				
Audrey Gibson	X				
Wilbert Holloway	X				
Stan Jordan	X				
Ron Reagan			X		
David Rivera	X				
Donald Brown (Chair)	X				
Total Yeas: 8		Total Nays: 0			

Committee meeting was reported out: Wednesday, April 19, 2006 4:36:57PM

COUNCIL MEETING REPORT

State Administration Council

4/19/2006 3:30:00PM

Location: Morris Hall (17 HOB)

Summary:

State Administration Council

Wednesday April 19, 2006 03:30 pm

HB 13 CS	Favorable	Yeas: 7	Nays: 0
HB 133 CS	Favorable	Yeas: 7	Nays: 0
HB 373 CS	Favorable	Yeas: 7	Nays: 0
HB 493 CS	Favorable With Committee Substitute	Yeas: 7	Nays: 0
HB 1037 CS	Favorable With Committee Substitute	Yeas: 8	Nays: 0
HB 7081	Favorable With Committee Substitute	Yeas: 8	Nays: 0
HB 7233 CS	Favorable	Yeas: 8	Nays: 0

Committee meeting was reported out: Wednesday, April 19, 2006 4:36:57PM